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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,176	09/12/2003	Robert Stidd	270804 Stidd Tandem Tow	2175
4988	7590	07/10/2009	EXAMINER	
ALFRED M. WALKER			LOWE, MICHAEL S	
225 OLD COUNTRY ROAD				
MELVILLE, NY 11747-2712			ART UNIT	PAPER NUMBER
			3652	
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			07/10/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/605,176	STIDD, ROBERT	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael Scott Lowe	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 April 2009.  
 2a) This action is **FINAL**.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 54,56 and 58-61 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 54,56 and 58-61 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 11 December 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

***Claim Objections***

Claim 61 is objected to because of the following informalities: The claim states that "the movable vehicle locator swivel plate pivots in a vertical plane". While it is generally true that the pivoting will pass through many vertical planes, this limitation seems overly broad in view of the drawings and the rest of the application and it is mentioned for clarity that this is understood in the broad sense mentioned above. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 54,56,58-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chumley (US 5,609,350) in view of Young (US 6,336,783) and Hahn (US 6,092,970).

Re claims 54,61, Chumley teaches (generally figures 11-12) a device and method to tow at least two vehicles comprising:  
a base comprising a longitudinally extending main support beam (not numbered) and a support base attached to said main support beam,  
a pair of wheels (generally D) on opposite sides of and connected to said rack support base having an axis of rotation at right angles to said main support beam, said axis of

rotation being located between front and rear ends of said base,  
a hitch (generally front of A) mounted on a forward end of said main support beam  
extending from the front end of said base for attachment to a towing vehicle,  
one or more racks (generally C) on said support base between said axis of rotation and  
said hitch for supporting a first vehicle pointed at a right angle to direction of movement  
of said base;  
a movable vehicle locator swivel plate (generally E, 59, 62) mounted on an upper side  
of and adjacent the rear end of said base for supporting two wheels of a second vehicle  
being towed,  
said movable locator swivel plate pivoting around a vertical axis (generally 61) capable  
of being a point of rotation for said vehicle being towed as said towing vehicle moves  
through a radius of a turn.

Chumley does not teach the movable vehicle locator swivel plate located to the  
rear of said axis of rotation and Chumley teaches adjusting means but not that the  
means for adjusting said movable locator swivel plate being along a longitudinal axis of  
said base to adjust loads on said hitch comprising a downwardly extending pivot bolt  
from said swivel plate engaging a hole in a series of holes in said base arranged along  
said longitudinal axis of said base whereby said swivel plate is movable between said  
holes for adjusting a load on said hitch. Young teaches the movable vehicle locator  
swivel plate (generally 70) located to the rear of said axis of rotation and longitudinally  
adjustable in order better tow a second vehicle (generally 51) and have more room on  
the forward vehicle tow rack (generally 30). Hahn teaches it is known to have

longitudinal adjusting means comprise a plurality of longitudinal spaced openings with a downwardly extending pivot bolt (generally 60) for holding vehicle wheels at a desired location (column 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have tried modifying Chumley by Young and Hahn to have tried having the movable vehicle locator swivel plate longitudinally adjustable and located to the rear of said axis of rotation in order to achieve the predictable result of better towing (and inherently balancing) of a second vehicle and have more room on the forward vehicle tow rack, and to have longitudinal adjusting means comprise a plurality of longitudinal spaced openings with a downwardly extending pivot bolt for achieving the predictable result of holding vehicle wheels at a desired location.

Re claims 56,58-60, Chumley mentions an ATV but does not limit the type of first vehicle and is capable of having it be any type of vehicle. Although the limitations are only intended use for which Chumley is capable of handling, for sake of completeness and to speed up the case, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Chumley to use any type of vehicle in order to increase versatility.

### ***Conclusion***

Applicant's arguments filed 4/14/09 have been fully considered but they are not persuasive.

Applicant argued that each of the references do not teach a movable vehicle locator swivel plate (MLSP). However Chumley teaches a top side mounted plate that

movably swivels with a downwardly extending pivot thus locating and adjusting a vehicle load at different points on the device. Young teaches a vehicle plate that adjusts the vehicle held longitudinally to improve load and balance characteristics. Hahn teaches it is known to have a vehicle locating plate held by a downwardly extending pivot bolt that moves longitudinally. So all of the references have a MLSP and have a shared field of locating vehicles.

Applicant argued that each of the references individually lack the features of the claim, however since this is a 103 combination rejection it is the combination not the individual references alone that are used.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the references each show a common field of interest in the locating of vehicles as well as various improvements and alternative ways of locating vehicles and so one of ordinary skill would look at the references and understand the usefulness of the combination and thus make it obvious to try. As mentioned above Chumley teaches a top mounted swivel plate for locating a vehicle showing a downwardly extending pivot, Young teaches a vehicle plate that adjusts the vehicle held longitudinally to improve load and balance characteristics, and Hahn teaches it is known to have a vehicle locating plate held by a downwardly extending pivot bolt that moves longitudinally. The combination allows the Chumley to continue operating to hold vehicles but in an improved manner and the benefits listed in the rejections are some but not the only benefits of the combination.

Applicant's declaration of commercial success is not convincing as it is not clearly demonstrated that the instant invention alone resulted in the improved sales as it may have been caused by other factors such as improved marketing and increasing sales for the overall market.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Scott Lowe whose telephone number is (571)272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Scott Lowe/  
Primary Examiner, Art Unit 3652